

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GARCIELA DONCOUSE,

Plaintiff,

-v-

ST DYMPHNAS LLC and GG EAST VILLAGE LLC,

Defendants.
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23-cv-9980 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

On July 23, 2024, the Court dismissed this action because it was informed that the parties had reached a settlement in principle. Dkt. No. 22. The dismissal was “without prejudice to restoring the action to the Court’s calendar, provided the application to restore the action is made within thirty (30) days.” *Id.* By agreement of the parties, this deadline was extended to September 21, 2024. Dkt. Nos. 23, 24. On September 27, 2024, the Court received a letter from Plaintiff’s counsel requesting that the Court restore this matter to the calendar. Dkt. No. 25. The letter states that the settlement agreement has not been executed and communications between the parties have broken down. *Id.*

Plaintiff’s request to reopen was erroneously filed six days after the expiration of the period set out by the Court to file such a request. However, when a case is dismissed due to a settlement in principle, the lack of an actual settlement will generally provide good cause to reopen the case. *See Go New York Tours, Inc. v. Tour Cent. Park Inc.*, 2021 WL 3721359, at *7 (S.D.N.Y. Aug. 20, 2021). The Court notes that the dismissal stated it was without prejudice, any delay has not prejudiced Defendants, and refusing the request would create “the duplicative

expense of relitigation.” *Streit v. Amdocs, Inc.*, 307 F. App'x 505, 508 (2d Cir. 2009).

However, if a valid settlement exists, and the only issue is settlement enforcement, there is no basis to reopen. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 378 (1994).

Defendants are ORDERED to file a letter by October 4, 2024 stating whether a settlement has been reached. If Defendants do not contest Plaintiff's representation that no settlement has occurred, the Court will reopen this case and restore it to its active calendar.

SO ORDERED.

Dated: September 30, 2024
New York, New York

A handwritten signature in black ink, appearing to read "L. Liman", is written over a horizontal line.

LEWIS J. LIMAN
United States District Judge